

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Roland W. Nations and Rose R. Nations,

Complainants,

vs.

Sierra Meadows, LLC,

Defendant.

(ECP)
Case 05-04-025
(Filed April 26, 2005)

O P I N I O N

Roland W. Nations, complainant, in pro per.
Gary A. Gordon, Manager, Sierra Meadows,
LLC, for defendant.

Administrative Law Judge Victor D. Ryerson heard this matter in San Francisco on July 5, 2005, and the matter was submitted as of that date.

The complainants, Roland W. and Rose R. Nations, reside in a mobilehome park owned by defendant Sierra Meadows, LLC. Natural gas service is provided to tenants by means of a submetered distribution system, and the defendant bills the tenants for gas as specified by statutes and rules administered by the Commission, and in accordance with Commission-approved tariffs.

Public Utilities Code Section 739.5 requires mobilehome owners who provide gas to their tenants through a submetered system to charge the tenants

the same rate the serving utility would charge for comparable service.

Consequently, the rates defendant is obligated to charge tenants in complainants' mobilehome park are those of Pacific Gas and Electric Company (PG&E), the serving utility, which have been approved by the Commission. The monthly charge to a tenant is based upon its share of the park's entire use for the month, and is computed by Sierra Meadows in accordance with an allocation formula that uses the current PG&E rate. If a mobilehome park owner overcharges or undercharges for service, it is obligated to make subsequent adjustments to the tenants on the same basis as would the serving utility. In this case Sierra Meadows stands in PG&E's shoes in adjusting previous billings to the mobilehome park's residents.

In the summer of 2004 the complainants, after researching their gas rates on PG&E's internet website, became aware that Sierra Meadows had billed them incorrectly during the years 2001 through 2004, resulting in overcharges for gas during certain months of that period. The complainants sought a refund from the defendant for these overcharges, and called the matter to Sierra Meadows' attention. Sierra Meadows in response contacted PG&E for assistance.

In December 2004, two PG&E representatives met with the defendant's office manager, Dixie Gordon, to analyze the complainants' previous billings and those of the other tenants. Their examination disclosed that Sierra Meadows had misapplied two of the three factors used to compute the tenants' billings, the therm factor and the gas rate, resulting in billing errors. There was no consistent pattern to these errors, and they appeared to be inadvertent. Relying upon instructions and rates furnished by the PG&E representatives, Gordon recomputed the billings, and in March 2005 issued refunds to tenants who had been overcharged. Among these was a \$139.23 refund to the complainants.

PG&E subsequently confirmed in correspondence with the complainants that this was the proper amount for their refund.

The complainants claim that they are entitled to an additional refund in the amount of \$136.44 for the period in question. Their claim is predicated upon their contention that Sierra Meadows inappropriately applied higher PG&E baseline rates in recomputing the historical billings than those which were in effect at the relevant times, as well as incorrect therm factors. Although their rent bills for the record, which include the gas charges, reflect that these errors initially were made, it is unclear that the errors were not completely rectified and that the defendant failed to make the full refund to which they were entitled.

The complainants' position that Sierra Meadows applied inappropriately high baseline rates in making the refund calculations is based upon their claim that Sierra Meadows improperly increased procurement and transportation charge components of the baseline rates, and thus inflated them. However, the complainants produced no evidence that Sierra Meadows inflated these rate components, nor any meaningful comparison of the respective figures. They also provided no explanation why the therm factors used were incorrect. The spreadsheet they submitted to prove that the refund was insufficient contains a computation that is unintelligible, because it does not identify the errors in the rate components that are the source of the difference. Thus, their claim that incorrect rates were used to compute their refund amounts to a bald assertion, because they have not produced reliable evidence that erroneous components were used.

Sierra Meadows' refund calculation for the complainants was actually performed by PG&E after the complainants called the billing errors to the defendant's attention, and the result was confirmed by the Commission's

Consumer Affairs representative who investigated the claim. This supports the credibility of the defendant's refund calculation. Based upon the weight of the evidence before us, the complainants' complaint should be dismissed.

Geoffrey F. Brown is the Assigned Commissioner and Victor D. Ryerson is the assigned Administrative Law Judge in this proceeding.

O R D E R

IT IS THEREFORE ORDERED that the complaint is dismissed, and the proceeding is closed.

This order is effective today.

Dated _____, at San Francisco, California.